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April 2, 2020

BY ECF

Honorable Barbara Moses
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

MEMO ENDORSED

Re: Anton Liverpool v. The City of New York, et. al.,
18-CV-1354 (PAE) (BCM)

Your Honor:

As the attorney assigned to the defense of the above matter, I respectfully write to update the Court in advance of the telephonic status conference currently scheduled for Thursday, April 8, 2020 at 10:30 a.m. and to respectfully ask that the Court consider adjourning the conference to a future date. This application is made without plaintiff's consent, as plaintiff, who appears pro se, is incarcerated at Anthony P. Travisono Intake Service Center in Rhode Island and thus, cannot be reached expeditiously.

By way of background, plaintiff brings this civil action pursuant to 42 U.S.C. § 1983 alleging, inter alia, that he was assaulted by other inmates while incarcerated at the Anna M. Kross Center as the result of the distribution by correctional staff of a news article about him among other inmates at the facility.

By Order dated February 4, 2020, the Court directed defendants to respond to plaintiff's letter filed with the Court on January 27, 2020. On February 7, 2020, defendants responded to plaintiff's January 27th letter and respectfully requested that the Court reopen discovery for sixty (60) days after such time as plaintiff updated his address with the Court, to allow defendants to obtain plaintiff's properly executed medical releases and corresponding medical records, take plaintiff's deposition, and to facilitate the identification of the John Doe defendant that plaintiff purports to name in his Amended Complaint.

By Orders dated March 13, 2020 and March 18, 2020, the Court scheduled a telephonic status conference for April 8, 2020 to address the parties' letters to the Court. See Docket Nos. 70 and 72. The Court Orders directed defendants' counsel to send the Orders to the Warden immediately and contact the correctional facility to arrange the call and ensure plaintiff's participation in the telephonic conference. Given the Court's Order dated March 27, 2020, I immediately sent the Court's Orders to the Warden of the Anthony P. Trivisono Intake Service Center and contacted the Warden's Office to arrange plaintiff's participation in the April 8th telephonic conference. To that end, I conferred with both the Assistant to the Warden and Deputy Warden Kathy Lyons this week, and both stated that the April 8th conference would present a hardship as the facility is grappling with numerous restrictions due to the COVID-19 outbreak, such as new restrictions on inmate movement and the execution of several new emergency protocols.

Further, Governor Andrew Cuomo's Executive Order and pronouncements from other governmental and judicial officials, expert recommendations, and to prevent further spread of COVID-19, the New York City Law Department is continuing to require that non-essential employees work from home. I have been working from home for over two weeks. Consequently, it is extremely difficult to work efficiently without the support of Law Department resources.

Unfortunately, since Your Honor's last Order, the COVID-19 public health crisis has escalated and we are hard-pressed in our ability to move the litigation forward at the present time. Given the uncertainty of the current state of affairs, defendants respectfully submit that it might be more productive to reschedule the April 8th conference to a future date.

We thank the Court for its time, and appreciate Your Honor's understanding and consideration in these trying times.

Application GRANTED. The telephonic conference scheduled for April 8, 2020, at 10:30 a.m., is ADJOURNED *sine die*. No later than **May 8, 2020**, defendants shall submit a letter, updating the Court on when they anticipate the parties will be prepared to participate in a telephonic conference, in light of the ongoing national public health emergency. To the extent possible, defendants' letter shall include plaintiff's position, and any updated information from the the Anthony P. Trivisono Intake Service Center in Rhode Island (Intake Center). Defendants shall promptly serve a copy of this Order on plaintiff and file proof of such service, and shall inform the Warden of the Intake Center that the April 8 conference has been adjourned. SO ORDERED.



Barbara Moses, U.S.M.J.
April 3, 2020

Respectfully submitted,

S/ Stefano Perez

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Special Federal Litigation Division